

REMARKS

Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness double patenting over 3 pending applications. These are:

Application No. 10/627,939 – A continuation (see below) of this application has been filed and this application was permitted to go abandoned. However, no Notice of Abandonment was received by Applicant. Thus a copy of the Express Abandonment is attached.

Application No. 11/293,568 – A two way test must be applied to this application [see MPEP 804(II)B.1(b)], because the present application is earlier filed, the administrative delay was the fault of the Patent Office, and this later filed application could not have been filed at the same time as the present application because the invention had not yet been made. It is pointed out that the '568 application would not be obvious in view of the present application, because an important limitation in the claims of the '568 application is that the microwave susceptor must have a Curie point of about 100°C to about 300°C. Although the present application covers susceptors that could have a Curie point as specified in '568, it does not point out or otherwise discuss or disclose the advantage of using a susceptor with the Curie point temperatures mentioned in '568. Therefore '568 is not obvious over the present application, and this rejection is overcome. It is respectfully requested that this basis for rejection be withdrawn.

Application No. 11/438,518 (a continuation of Application No. 10/627,939) – A terminal disclaimer over this application is enclosed herewith, thereby overcoming this rejection.

Claim 11 has been rejected under 35 U.S.C. 112, second paragraph as being indefinite. Applicant agrees, and claim 11 has been canceled, thereby rendering the rejection moot.

Claims 1-11 have been rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/34702A2 (herein '702). Applicants traverse for the following reasons.

The Examiner has stated that claim 1 and other claims are not novel over '702 because '702 discloses a composition which, except for the thermal conductivity limitation, is the same as the presently claimed composition. However as noted in the present application at p. 7. lines 7-22 a sufficient quantity of a thermally conductive filler must be added to increase the thermal conductivity the composition

to the desired level. The increase in the thermal conductivity will depend on the amount of filler added (it is volume percent that is important, so that if the filler has a high density a higher weight percent will be needed), the thermal conductivity of the filler itself, and to a lesser extent the form (powder, fibrils, etc.) of the filler. It is Applicant's contention that the maximum amount of carbon fiber actually used in '702 is too little to increase the thermal conductivity to the now claimed level.

Thus in '702 the composition actually made in Table 1 which contained the highest amount of carbon fiber was Example 4, and there the composition contained 37 weight percent talc, 8 weight percent carbon fiber and remainder LCP. We have measured the thermal conductivity of an LCP composition containing 37 weight percent talc and 8 weight percent carbon fiber and the thermal conductivity is 0.365 W/m·K, well below our minimum claimed value (see the attached Declaration under 37 C.F.R. 132). The reason for this is simple, talc does not have a very high thermal conductivity and there is not a lot of carbon fiber in the composition. These factors were noted above. Note the large amounts of carbon black added to the composition of the Examples in the present application compared to the amounts being recommended '702.

Since compositions with relatively little carbon black have low thermal conductivity (compared to the present minimum limitation), '702 does not anticipate the present claims.

Claims 1-11 have been rejected under 35 U.S.C. 102(b) as anticipated by Nakamichi (U.S. Patent 5,028,461). Applicant traverses for the following reasons.

The Office Action states "Nakamichi teaches an ovenware item comprising a thermoplastic polymer with a filler (abstract), the filler being carbon black containing graphite (col. 3, line 53), up to 70% carbon black (abstract), ...". Applicant believes that this statement somewhat mischaracterizes what Nakamichi states. The abstract states in part "... composition containing 20-70% by weight of glass fiber or glass fiber and other inorganic filler." The abstract does not mention carbon black.

At col. 2, lines 57-64, it is clear that glass fiber is the important filler and should be present at 20-75% by weight. It also states at col. 3, lines 48-56 that any other inorganic fillers, including carbon black, may be present. Although it states at col. 4, lines 4-19 that the inorganic filler may be as high as 50% by weight, one skilled in the

art would interpret overall the disclosure to mean most of the filler should probably be glass fiber, which does not have a high thermal conductivity.

It is further pointed out that Nakamichi does not disclose that a composition containing a large enough amount of carbon black or any other thermally conductive inorganic filler to raise the thermal conductivity of the polymeric composition to the presently claimed minimum is would have advantages in the use. The fillers listed at col. 3, lines 51-56 are clearly a "laundry list" of fillers and one skilled in the art would take them to mean, as stated in Nakamichi, that any "inorganic filler" would be suitable. Also Nakamichi does not combine the idea of a thermally conductive filler being present with it being present in sufficient quantity to raise the thermal conductivity of resulting composition to the required level. Since Nakamichi does not disclose the presently claimed composition with sufficient specificity [see for instance *Atofina v. Great Lakes Chemical Corp.*, (CAFC 2006) 78 USPQ2d 1417 at 1423], it does not anticipate the present claims.

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



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